



August 24, 2016

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

**Re: Freedom of Information Act Request: USEPA Region 2
Global Companies, LLC
50 Church Street, Albany, New York**

Dear Sir or Madam:

Earthjustice, on behalf of the Ezra Prentice Homes Tenants Association, the County of Albany, Sierra Club, Natural Resources Defense Council, Center for Biological Diversity, Riverkeeper, Inc., Scenic Hudson, and Catskill Mountainkeeper (the “Requesting Groups”), submits this request pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the EPA regulations governing public access to records, 40 C.F.R. Part 2, for the records identified below.

I. Definitions

As used in this request, the following terms have the meanings set forth below:

1. “EPA” means the United States Environmental Protection Agency, its employees and contractors.
2. “Global” means Global Companies, LLC and Global Partners.
3. “Albany Terminal” means the petroleum product terminal operated by Global and located at 50 Church Street, Albany, New York.
4. “NYSDEC” means the New York State Department of Environmental Conservation.

II. Time Period

This request pertains to the time period February 1, 2016 until the date of EPA’s response to this request.

III. Records Requested

The Requesting Groups hereby request access to the following records for the time period specified above:

1. All communications between EPA and Global concerning or relating to the Albany Terminal.
2. All communications between EPA and NYSDEC concerning or relating to the Albany Terminal.

IV. Fee Waiver Request

Pursuant to 5 U.S.C. § 552, we request a fee waiver because “disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 40 C.F.R. § 2.107(l)(1). As demonstrated below, all of the factors specified in EPA’s FOIA regulations at 40 C.F.R. § 2.107(l)(2) weigh in favor of granting our fee waiver request. In particular, the Requesting Groups are plaintiffs in a Clean Air Act citizen suit against Global now pending in the U.S. District Court for the Northern District of New York, *Benton et al. v. Global Companies, LLC*, Index No. 1:16-CV-125 (GSL/CFH). The claims raised by the Requesting Groups in the *Benton* litigation are very similar to those identified in the July 29, 2016 Clean Air Act Notice of Violation issued to Global by EPA Region 2.

Factor 1: The Requested Records Concern the Operations or Activities of the Federal Government.

The subject matter of the requested FOIA concerns operations or activities of the federal government because it pertains to EPA’s evaluation and assessment of Global’s emissions of air pollutants from the Albany Terminal, and the pending administrative enforcement action commenced by EPA against Global pursuant to the Clean Air Act.

Factor 2: Disclosure of the Requested Records is Likely to Contribute to Public Understanding of Government Operations or Activities.

Disclosure of the requested records is likely to contribute to public understanding of government operations or activities because such disclosure will enable the Requesting Groups to better understand EPA’s evaluation of air pollutant emissions from Global’s Albany Terminal and better understand the basis for EPA’s Clean Air Act enforcement action against Global.

Factor 3: Disclosure of the Requested Records Will Contribute to the Understanding of a Broad Audience of Persons Interested in Government Regulation of Air Pollutants.

Disclosure will contribute to the understanding of a broad audience of persons interested in learning about air pollution from Global’s Albany Terminal. The Albany Terminal is located in the densely populated South End of Albany, which has been identified as an environmental justice community by NYSDEC. Each of the requesting organizations—a tenants association from a public housing project located directly adjacent to the Albany Terminal, a unit of local government, and nonprofit public interest advocacy organizations—have been actively involved

for nearly three years in evaluating and commenting upon emissions of air pollutants from the Albany Terminal. In addition, as noted above, the Requesting Groups are plaintiffs in a Clean Air Act citizen suit against Global now pending in the U.S. District Court for the Northern District of New York. Thus, the Requesting Groups are well-prepared to evaluate the requested records once they are received. Second, as explained below, each requesting organization has mechanisms in place to share information obtained from the requested records with (1) their members, supporters and/or constituents, (2) policymakers at the federal and state level who are evaluating Global's pending application to expand crude oil operations at the Albany Terminal and its application to renew its current Title V permit, and (3) members of the news media, who will then disseminate this information to the general public.

Earthjustice, a national nonprofit environmental law firm, has made safeguarding environmental justice communities and the general public from adverse health impacts from air pollution one of its top priorities and has developed expertise in this area. *See* <http://www.earthjustice.org/healthy-communities/clean-air>. Earthjustice can publicize information received from this request in its monthly electronic newsletter, which serves approximately 223,000 subscribers. Earthjustice also can utilize its online action alert system to urge members of the public to contact policymakers and ask them to take action based on information received from this request; typically, 15,000 to 20,000 individuals respond to such alerts.

The Ezra Prentice Homes Tenants Association (the "Association") is an unincorporated association with approximately 100 members. The Association's mission is to represent the interests of the tenants of the Ezra Prentice Homes ("Ezra Prentice"), particularly with respect to matters affecting their health, safety, and welfare. Ezra Prentice is a public housing development owned and operated by the Albany Housing Authority and consists of 176 apartment units, all of which are currently occupied. Ezra Prentice is home to over 400 residents, including more than 200 children, and is located directly adjacent to the Albany Terminal. The Association meets regularly to inform tenants about matters affecting their health, safety, and welfare, and will provide information received from this request to tenants of Ezra Prentice.

The County of Albany is a municipal corporation organized and existing under the laws of the State of New York. According to the 2010 United States Census, over 300,000 people reside in Albany County. For nearly three years, the County has been actively involved in public health issues posed by operations at Global's Albany Terminal. The County has held numerous public, press and media events to communicate information concerning these issues to the residents of Albany County, and will use the same means to disseminate information gained through this request to county residents.

Sierra Club is a national not-for-profit organization with 64 chapters and over 625,000 members dedicated to exploring, enjoying, and protecting the wild places of the earth; to practicing and promoting the responsible use of the earth's ecosystems and resources; to educating and enlisting humanity to protect and restore the quality of the natural and human environment; and to using all lawful means to carry out those objectives. The Atlantic Chapter of Sierra Club has approximately 38,000 members in the State of New York. Sierra Club is actively engaged in working to protect the health and well-being of the communities in the City

of Albany and the Hudson River Valley. Sierra Club will communicate information from this request to its members via email, website postings, and periodical publications.

Center for Biological Diversity (“CBD”) is a 501(c)(3) not-for-profit organization with over 900,000 members and online activists. CBD’s members are dedicated to protecting diverse native species and habitats through science, policy, education, and environmental law. CBD will communicate information from this request to its members via email, website postings, and periodical publications.

Riverkeeper, Inc. (“Riverkeeper”) is a 501(c)(3) not-for-profit corporation with offices located at 20 Secor Road, Ossining, New York. Riverkeeper is a member-supported watchdog organization with approximately 4,000 active members, many of whom reside in the Hudson Valley, including within the City of Albany. Riverkeeper will communicate information from this request to its members via email, website postings, and periodical publications.

Scenic Hudson is a 501(c)(3) not-for-profit organization headquartered at One Civic Center Plaza, Suite 200, Poughkeepsie, New York. Scenic Hudson works to protect and restore the Hudson River and its majestic landscape as an irreplaceable national treasure and a vital resource for residents and visitors. Scenic Hudson will communicate information from this request to its members via email, website postings, and periodical publications.

Natural Resources Defense Council (“NRDC”) is a 501(c)(3) not-for-profit organization headquartered at 40 West 20th Street, New York, New York. NRDC’s purpose is to safeguard the Earth: its people, its plants and animals, and the natural systems on which all life depends. NRDC is a member-supported organization with over 2 million members and online activists that fights for the planet and its people in communities across the country and nations around the globe. Further, as a New York-based organization, NRDC has long advocated for New Yorkers’ rights to clean air and clean water, and fought to shield the state’s communities from the environmental harms posed by big polluters. NRDC will communicate information from this request to its members via email, website postings, and periodical publications.

Catskill Mountainkeeper is a 501(c)(3) not-for-profit organization located in Livingston Manor, New York. Catskill Mountainkeeper is dedicated to protecting and preserving the unique and irreplaceable Catskill Region of New York State, and represents the residents of seven counties in New York State (Albany, Delaware, Greene, Otsego, Schoharie, Sullivan, and Ulster) as well as the Upper Delaware and Susquehanna River basins. Catskill Mountainkeeper will communicate information from this request to its members via email, website postings, and periodical publications.

Factor 4: The Contribution to Public Understanding of Government Operations or Activities Will Be Significant.

The contribution to public understanding of government operations or activities will be significant as compared to the level of public understanding existing prior to disclosure. At present, the public – and particularly the impacted environmental justice community – have been largely excluded from agency deliberations concerning Global’s failure to comply with Clean

Air Act requirements. In fact, it was partly due to this lack of public understanding of the government's assessment of Global's compliance status that led to the filing of the federal court citizens suit by the Requesting Groups. If this information request is granted, key documents concerning Global's calculations regarding emissions of air pollutants from the Albany Terminal will be available publicly for the first time. Moreover, access to the requested records will enable the public to gain a better understanding of how EPA responded to the information provided by Global concerning operations at the Albany Terminal.

Factor 5: The Requesters Have No Commercial Interest in the Requested Disclosure of Information.

The Requesting Groups do not have a commercial interest that would be furthered by the requested disclosure of information.

Factor 6: Requesters' Sole Interest in Disclosure is to Promote the Public Interest.

The Requesting Groups' sole interest in obtaining the requested information is to broaden public understanding of the potential health and environmental risks posed by emissions of air pollutants from Global's Albany Terminal.

In sum, this request meets the factors for a fee waiver. In the event that fees are not waived, please notify and inform me of the basis for your decision.

V. Delivery of Records

To the extent that the requested records are available in a readily accessible electronic format, we would prefer to receive the documents electronically, either by email or on a CD. If electronic copies are unavailable, we will accept paper copies. Please send records to Christopher Amato at camato@earthjustice.org or mail them to:

Christopher Amato
Staff Attorney
Earthjustice
48 Wall Street, 19th Floor
New York, NY 10005

As FOIA requires, we expect your response within twenty working days of your receipt of this request. In the event that you have any questions concerning the type of materials we are interested in receiving, or wish to discuss this request, please contact the undersigned by the email or telephone numbers listed below.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Amato", with a stylized flourish at the end.

Christopher Amato
Staff Attorney
camato@earthjustice.org
(212) 845-7390